

2012 04 T 0180 CCP  
2012 04 T 0190 CCP

IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR  
GENERAL DIVISION

BETWEEN

BARBARA HYNES and VALERIE DYKE

PLAINTIFFS

AND:

WESTERN REGIONAL HEALTH AUTHORITY

DEFENDANT

BROUGHT UNDER THE *CLASS ACTIONS ACT*  
BEFORE THE HONOURABLE MR. JUSTICE PETER BROWNE

**MEMORANDUM OF SETTLEMENT**


The parties agree to settle this class action on the following terms:


1. The Defendants will pay to the Plaintiffs a global sum of \$962,552.40 CAD (the "Settlement Funds") in full and final satisfaction of the claims of all class members. The payment of Settlement Funds to the Class is contingent on the conditions set out in this Memorandum of Settlement.
2. The Settlement Funds are comprised of the following:
  - (a) A per-claimant amount of \$610 in general damages, plus pre-judgment interest (shared equally among the surviving Class Members).
  - (b) Pre-judgment interest is fixed in the amount of \$111,069.14.
  - (c) Legal fees, payable to Class Counsel, in the amount of \$164,284.79, representing 25% of the global per-claimant amount inclusive of pre-judgment interest.
  - (d) An Honorarium payable to each of the two Representative Plaintiffs, Barbara Hynes and Valerie Dyke, in the amount of \$2,500 each.

- (e) Administration Fees, payable to the Claims Administrator, in the total amount of \$88,700.
  - (f) Disbursements, payable to Class Counsel, in the amount of \$52,428.47.
3. This settlement is subject to approval by the Supreme Court of Newfoundland and Labrador, General Division. Class Counsel will bring an Application for approval of the proposed settlement in accordance with the *Class Actions Act* and the *Rules of the Supreme Court, 1986*.
  4. Class Counsel are responsible for organizing and administering the distribution of the settlement, whether internally, or by engaging a third-party claims administrator. The Plaintiffs are also responsible for making any necessary arrangements to distribute the Settlement Funds to minors within the Class, including seeking an order of this Court should it be required to appoint the Public Trustee to administer the payment of Settlement Funds to minors who are members of the Class.
  5. Class Counsel will provide the Defendants with confirmation of the identities of any potential Class Members who have opted out.
  6. The Defendants will provide Class Counsel with a list of living class members along with the most recently known (to Western Health) address.
  7. The Defendant will receive a full and final release of all claims asserted on behalf of the Class Members in the class action from each Representative Plaintiff. The form of release will inure to the benefit of the Defendant by its corrected name, Western Regional Integrated Health Authority, and to its successor, the Provincial Health Authority operating as Newfoundland and Labrador Health Services; and also to its insurer, the Health Insurance Reciprocal of Canada, and also to each of their respective agents, successors, assigns, employees, officers, and directors, as it relates to the subject matter of this class action.
  8. The Defendant will not pay any disbursements related to the retainer (by Class Counsel) of Dr. Thomas Keenan as a potential expert witness for the Plaintiffs. The settlement payment to each Class Member will be reduced by \$36.95 to account for the costs incurred by Class Counsel in their unsuccessful attempt to qualify Dr. Keenan as an expert witness.


9. The parties have not agreed to a specific protocol for distributing any unclaimed Settlement Funds. Plaintiffs are responsible for proposing an appropriate process for Court approval.

ALL OF WHICH is agreed to by the undersigned this 4<sup>th</sup> day of June, 2024.

  
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**BOB BUCKINGHAM**  
Counsel to the Class

  
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**ANDREW MAY**  
Counsel to the Class

  
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**JANET L. CAPRENTER**  
Counsel to the Defendant

  
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**RUTH E. TRASK**  
Counsel to the Defendant